IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 652 OF 1993

The State of Maharashtra ..Appellants

versus

Smt. Anandibai J. Deshmukh ..Respondent

Mr. B. R. Patil, Acting G.P. for the Appellants.

Mr. P. N. Patwardhan for the Respondent.

CORAM : D. G. DESHPANDE,J.

DATE : 25TH FEBRUARY,2005

ORAL ORDER :

1. Heard learned AGP for the Appellants - State and learned counsel for the claimant - respondent.

2. This appeal is filed by the State challenging the Order of the Reference Court dated 23.3.1990 by which the compensation given to the claimant at the rate of Rs.6/- per sq. meter. SLAO had awarded 0.90 paise per sq. meter. The Appeal is therefore against the enhanced amount.

3. However, my attention was drawn by the counsel for the respondent on an Order passed by

this Hon'ble Court in Appeal No. 460 of 1987 which was an appeal in respect of acquisition from the same village. In that case the Court fixed compensation at Rs.6.40 paise per sq. meter though ultimately the matter was remanded for fixing component and interest.

4. Counsel for the respondent contended that there is no challenge in that behalf nor the State has challenged the interest or component part and therefore there is no necessity to remand the matter. However, it is equally true that this is not a case for reduction of compensation by allowing the Appeal of the State because the judgment in the aforesaid Appeal is of Single Bench, therefore the Appeal has no merits.

5. Counsel for the respondent contended that this court in case, as stated, awarded compensation at Rs.6.40 per sq. meter then the benefit should also be given to the present claimant though there is no separate appeal filed by the claimant for enhancement.

6. Difference in price awarded by the Reference Court in this case and the price fixed by this court in the aforesaid Appeal No. 460 of 1987 is not of much difference, the difference is of 0.40 paise per

sq. meter and therefore benefit of this order can also be given to the claimant in this case. The Notification under Section 4 in that case was 13.6.1964. Same is the date of the notification in the present case. Therefore I pass the following order:

ORDER

Appeal filed by the State is dismissed. The claimant will be entitled to compensation at the rate of Rs.6.40 per sq. meter from the Government. No order as to costs.

25.02.2005 (D.G. DESHPANDE, J.)